

By: M. Glasgow

S.J.R. No. 33

SENATE

JOINT RESOLUTION

1 proposing a constitutional amendment relating to statutory revision
2 and to the requirement that each bill have a title expressing the
3 subject of the bill.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article III, Section 35, of the Texas
6 Constitution is amended to read as follows:

7 "Sec^{tion} 35. (a) No bill, (except general appropriation bills,
8 which may embrace the various subjects and accounts, for and on
9 account of which moneys are appropriated) shall contain more than
10 one subject[~~which shall be expressed in its title. But if any~~
11 ~~subject shall be embraced in an act, which shall not be expressed~~
12 ~~in the title, such act shall be void only as to so much thereof, as~~
13 ~~shall not be so expressed~~].

14 " (b) The rules of procedure of each house shall require that
15 the subject of each bill be expressed in its title in a manner that
16 gives the legislature and the public reasonable notice of that
17 subject. The legislature is solely responsible for determining
18 compliance with the rule.

19 " (c) A law, including a law enacted before the effective date
20 of this subsection, may not be held void on the basis of an
21 insufficient title. "

22 SECTION 2. Article III, Section 43, of the Texas
23 Constitution is amended to read as follows:

24 "Sec^{tion} 43. (a) The [first-session-of-the] Legislature' [under

S. J. R. No. 33

1 ~~this--Constitution]~~ shall provide for revising, digesting and
2 publishing the laws, civil and criminal; ~~[and--a--like--revision,~~
3 ~~digest--and--publication--may--be--made--every--ten--years--thereafter,~~
4 provided, that in the adoption of and giving effect to any such
5 digest or revision, the Legislature shall not be limited by
6 sections 35 and 36 of this Article.

7 (b) In this section, "revision" includes a revision of the
8 statutes on a particular subject and any enactment having the
9 purpose, declared in the enactment, of codifying without
10 substantive change statutes that individually relate to different
11 subjects."

12 SECTION 3. This proposed constitutional amendment shall be
13 submitted to the voters at an election to be held on November 4,
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15 against the proposition: "The constitutional amendment requiring
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H. J.

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PROCEEDINGS

Art. 3, § 35

Historical Note

Earlier Constitutions:
Const.1845, Art. 3, § 22.
Const.1861, Art. 3, § 22.

Const.1866, Art. 3, § 21.
Const.1869, Art. 3, § 26.

Notes of Decisions

Bills relating to same subject 1
Journals 3
Resolutions 2

could by resolution set apart a particular room in the State Capitol for use of the Daughters of the Confederacy. Conley v. Texas Division of United Daughters of the Confederacy (Civ.App.1914) 164 S.W. 24.

Constitution places bills and resolutions in separate and distinct categories. Commercial Standard Fire & Marine Co. v. Commissioner of Ins. (Civ.App.1968) 429 S.W.2d 930.

Under this section, there exists a distinction between legislative enactments, such as statutes and ordinances, and "resolutions," which usually denote adoption of a motion. City of Clute v. City of Lake Jackson (Civ.App.1977) 559 S.W.2d 391, ref. n.r.e.

3. Journals

Where an act appears to be duly authenticated according to required standards, the power to ascertain and test whether the constitutional demands have been complied with should be vested in the Legislature itself, and when it appears that the authentication and promulgation of the legislative department has been in conformity to the Constitution, the courts will not permit any further inquiry into the matter, and will not permit legislative journals to be invoked to overturn the authenticated statute. King v. Terrell (Civ.App.1920) 218 S.W. 42.

1. Bills relating to same subject
It appearing that the members of the Thirty-Sixth Legislature thought that Senate Bill No. 32 relating to salaries of judges, was not in substance the same as House Bill No. 21, relating to salaries of judges, which was defeated, the courts ought not to interfere and hold that the former was in substance the same as the latter and that the Legislature did not have power to pass it under this section, the question being one upon which the minds of reasonable men might differ; since the Thirty-Sixth Legislature was lawfully in session, and had the inherent right to legislate upon the question of fixing the salaries of judges, the courts will presume that such Legislature had not incapacitated itself from enacting into law Senate Bill No. 32 by defeating at the same session a bill similar in substance, contrary to this section, and will not suffer such presumption to be rebutted. King v. Terrell (Civ.App. 1920) 218 S.W. 42.

2. Resolutions
In view of Art. 4, § 15, § 38 of this Article, and this section, the Legislature

§ 35. Subjects and titles of bills

Sec. 35. No bill, (except general appropriation bills, which may embrace the various subjects and accounts, for and on account of which moneys are appropriated) shall contain more than one subject, which shall be expressed in its title. But if any subject shall be embraced in an act, which shall not be expressed in the title, such act shall be void only as to so much thereof, as shall not be so expressed.

INTERPRETIVE COMMENTARY

In English parliamentary practice titles were originally of no importance for they were not used at all in the first 200 years of parliamentary law-making history. In the time of Henry VIII, the practice did evolve of giving each chapter a title, but even then the law did not consider the title a part of the act.

INTERPRETIVE COMMENTARY

Viva voce means literally with the living voice, and, when used to refer to voting, it is used to mean open voting, a symbol of publicity, as opposed to secret voting, *i.e.* voting by ballot.

Section 41 with respect to legislative elections, except as to election of officers of either house, prohibits secret voting. Votes in such elections must be open and disclosed to those present.

A large number of state constitutions require that elections by the legislature shall be *viva voce*. Georgia adds a specific injunction in the case of the speaker. Oklahoma, to the contrary, excepts officers and employees of the legislature. Texas, as noted, excepts only officers of either house.

Historical Note

Earlier Constitutions:

Const. 1869, Art. 12, § 4.

Cross References

Election of Governor and Lieutenant Governor when Governor-elect and Lieutenant Governor-elect die or become incapacitated, see V.A.T.S. Election Code, art. 8.46.

Library References

Statutes \S 19.

C.J.S. Statutes § 41 et seq.

REQUIREMENTS AND LIMITATIONS

§ 42. Repealed by Acts 1969, 61st Leg., p. 3230, H.J.R. No. 3

Historical Note

The repealed section related to the power of the Legislature to pass laws to carry into effect the provisions of the Constitution.

Repeal of this section was proposed by H.J.R. No. 3, Acts 1969, 61st Leg., p. 3230,

and was approved by voters at election held Aug. 5, 1969.

§ 43. Revision of laws

Sec. 43. ^{1/2} The first session of the Legislature under this Constitution shall provide for revising, digesting and publishing the laws, civil and criminal; and a like revision, digest and publication may be made every ten years thereafter; provided, that in the adoption of and giving effect to any such digest or revision, the Legislature shall not be limited by sections 35 and 36 of this Article.

1 By: Glasgow

S.J.R. No. 33

2 (In the Senate - Filed March 7, 1985; March 7, 1985, read
3 first time and referred to Committee on State Affairs;
4 April 18, 1985, reported favorably; April 18, 1985, sent to
5 printer.)

6 SENATE JOINT RESOLUTION
7

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24 subject. The legislature is solely responsible for determining
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26 "(c) A law, including a law enacted before the effective
27 date of this subsection, may not be held void on the basis of an
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30 Constitution is amended to read as follows:

31 "Section 43. (a) The ~~[first--session-of-the]~~ Legislature
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49 for the continuing revision of state laws."

50 * * * * *

51 Austin, Texas
52 April 18, 1985

53 Hon. William P. Hobby
54 President of the Senate

55 Sir:

56 We, your Committee on State Affairs to which was referred S.J.R.
57 No. 33, have had the same under consideration, and I am instructed
58 to report it back to the Senate with the recommendation that it do
59 pass and be printed.

60 Farabee, Chairman

By: Glasgow

Bill Analysis

Background Information

All bills, except a general appropriations bill, are currently limited to one subject. The subject matter of that bill must be expressed in its title. If a subject is addressed that is not included in the title that act may be declared void.

Purpose

To propose a constitutional amendment for the following reason: To specifically state that an act may not be voided on the basis of an insufficient title. To make the Legislature solely responsible for determining compliance with this rule.

Synopsis

The language dealing with the voiding of a bill due to an insufficient title is deleted.

The bill specifically states that the Rules of Procedure of the House shall require that the subject of a bill be expressed in its title in a manner that gives the legislature and the public reasonable notice of that subject.

States that the Legislature shall be the sole authority for determining compliance with the rule.

States that no law, including those enacted before the effective date of this act, may be held void on the basis of an insufficient title.

Further amends the constitution to allow the legislature to provide for the revision of statutes relating to different subjects by an enactment without substantive changes.

This constitutional amendment would go before the voters on November 4, 1986.

Rulemaking Authority

It is the opinion of the committee that this bill delegates no rulemaking authority to any state agency, officer, department or institution.

Summary of Committee Action

Having heard it's House companion, H.J.R. 66, on April 1, 1985, the State Affairs Committee took up S.J.R. 33 on May 7, 1985. On that date the full committee voted to report the measure to the House, without amendment and with the recommendation it do pass, by a record vote of 7 ayes, no nays, 1 PNV and 5 members absent.

2

S.J.R. 33 by Glasgow

Proposing a constitutional amendment relating to statutory revision and to the requirement that each bill have a title expressing the subject of the bill.

Background Information:

Article III, Section 35, of the Texas Constitution provides two rules: first, that no bill may contain more than one subject; second, that the subject of the bill must be expressed in its title (commonly known as the caption). This basic rule has remained in the Texas Constitution since the constitution of the Republic. This section has generated more reported court cases than any other constitutional rule relating to the legislative process.

The one-subject rule is seldom the object of a court case and has obvious merit in controlling the legislative process. In Congress, which operates without an effective one-subject rule, the log-rolling that results impedes the process. For example, a simple bill in Congress may have numerous unrelated bills and appropriations attached to it, with the result that the simple bill is held hostage by the more controversial and nongermane amendments. This proposed constitutional amendment would retain the one-subject rule.

Article III, Section 43, of the Texas Constitution envisions a complete recodification of Texas statutes every 10 years. This type of bulk revision occurred in 1895, 1911, and 1925, but the growth of Texas statutes has made subsequent revisions of that type impractical if not impossible. The legislature created the continuing statutory revision program (Article 5429b-1, Vernon's Texas Civil Statutes) in 1963 and revision has since occurred on a topical basis.

Problem(s) that the Bill Addresses:

1. The caption rule is the cause of numerous disputes in civil and criminal court cases.
2. The constitutional provision on statutory revision is essentially obsolete because it provides for revision of all the Texas statutes every 10 years - an impractical, if not impossible, task.

How this Bill will Solve the Problem(s):

1. The proposed constitutional amendment would replace the constitutional caption rule with a requirement that each house of the legislature have a caption rule among its rules of procedure. Compliance with those rules would expressly prohibit a court from voiding a statute on the basis of a defective caption.
2. The proposed constitutional amendment would specifically recognize topic-by-topic revision of the statutes and the bills that update existing codes.

This resolution amends existing law.

Section by Section Analysis:

SECTION 1: Amends Article III, Section 35, of the Texas Constitution. The amendment preserves the one-subject rule, eliminates the constitutional caption rule, and requires each house to include a caption rule in its rules of procedure. The legislature would be solely responsible for enforcement of the caption rule. The amendment provides that a law may not be held void on the basis of a defective caption.

SECTION 2: Amends Article III, Section 43, of the Texas Constitution. The amendment modernizes the recodification section of the constitution and specifically authorizes the topical revisions and the bills that update those revisions.

SECTION 3: Is the Submission provision.

Changes in Agency Rulemaking Authority:

None.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 14, 1985

Honorable Ray Farabee, Chairman
Committee on State Affairs
Senate Chamber
Austin, Texas

In Re: Senate Joint Resolution No. 33
By: Glasgow

Sir:

In response to your request for a Fiscal Note on Senate Joint Resolution No. 33 (proposing a constitutional amendment relating to statutory revision and to the requirement that each bill have a title expressing the subject of the bill) this office has determined the following:

The resolution would make no appropriation but could provide the legal basis for an appropriation of funds.

The cost of publication of the resolution to the State is \$48,100.

No additional fiscal implication to the State or units of local government is anticipated.


Jim Oliver
Director

Source: Secretary of State; LBB Staff: JO, JH, LF, LV

April 30 1985 Engrossed
Latsy Graw
Engrossing Clerk

I certify that the attached is a true and correct

copy of SJR 33, which was

received from the Senate on MAY 1 1985

returned to the Committee on State Affairs

Deety Murray
Chief Clerk of the House

By: Glasgow
(Haley)

S.J.R. No. 33

SENATE JOINT RESOLUTION

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The resolution would make no appropriation but could provide the legal basis for an appropriation of funds.

The cost of publication of the resolution to the State is \$48,100.

No additional fiscal implication to the State or units of local government is anticipated.


Jim Oliver
Director

Source: Secretary of State; LBB Staff: JO, JH, LF, LV

HOUSE COMMITTEE REPORT

1st. Printing

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HOUSE OF REPRESENTATIVES

By: Glasgow
(Haley)

S.J.R. No. 33

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COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

5/7/85
(date)

Sir:

We, your COMMITTEE ON STATE AFFAIRS, to whom was referred SJR 33 have had the same under consideration and beg to report back with the recommendation that it (measure)

- ☒ do pass, without amendment.
- ☐ do pass, with amendment(s).
- ☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. () yes ☒ no SENATE FISCAL NOTE ATTACHED An actuarial analysis was requested. () yes ☒ no

An author's fiscal statement was requested. () yes ☒ no

The Committee recommends that this measure be placed on the (Local) or (Consent) Calendar.

This measure ☒ proposes a constitutional amendment ~~new law.~~ ~~amends existing law.~~

House Sponsor of Senate Measure Hailey

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Laney, Ch.	✓			
Hill, P., V.C.	✓			
Stiles, C.B.O.	✓			
Cain				✓
Gavin	✓			
Gilley	✓			
Guerrero	✓			
Keller				✓
Messer				✓
Perez	✓			
Riley				✓
Smith, R.			✓	
Thompson, G. of Abilene				✓

Total
7 aye
0 nay
1 present, not voting
5 absent

[Signature]
CHAIRMAN
[Signature]
COMMITTEE COORDINATOR

By: Glasgow

Bill Analysis

Background Information

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Source: Secretary of State; LBB Staff: JO, JH, LF, LV

Enrolled May 17, 1925
Fatey Egan
Enrolling Clerk

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Source: Secretary of State; LBB Staff: JO, JH, LF, LV

78# 97
22 0

S.J.R. No. 33

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 33 was adopted by the Senate on April 30, 1985, by the following vote: Yeas 25, Nays 0.

Secretary of the Senate

I hereby certify that S.J.R. No. 33 was adopted by the House on May 16, 1985, by the following vote: Yeas 134, Nays 7, one present not voting.

Chief Clerk of the House

Sen

S.J.R. No. 33

President of the Senate

Speaker of the House

I hereby certify that S.J.R. No. 33 (1) was ~~passed~~ ^{adopted} by the Senate on April 30 (2), 1985, by the following vote:
Yeas 25 (3), Nays 0 (4).

Secretary of the Senate

I hereby certify that S.J.R. No. 33 (1) was ~~passed~~ ^{adopted} by the House on May 16 (5), 1985, by the following vote:
Yeas 134 (6), Nays 71 (7). *↑ one present not voting*

Chief Clerk of the House

Approved:

Date

Governor

SENATE JOINT RESOLUTION

Proposing a constitutional amendment relating to statutory revision and to the requirement that each bill have a title expressing the subject of the bill.

3-7-85

Filed with the Secretary of the Senate

MAR 7 1985Read, referred to Committee on STATE AFFAIRSAPR 18 1985

Reported favorably.

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed.

APR 30 1985

Senate and Constitutional Rules to permit consideration suspended by

unanimous consent.

years. nays.

To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of years. nays.

APR 30 1985Read second time and { ordered engrossed.
passed to third reading.

Caption ordered amended to conform to body of bill.

APR 30 1985Senate and Constitutional 3-Day Rules suspended by vote of
25 years. 0 nays to place bill on third reading and final passage.APR 30 1985Read third time and passed by a viva voce vote.25 years. 0 nays.

OTHER ACTION

Betty King

Secretary of the Senate

April 30, 1985

Engrossed

May 1, 1985

Sent to HOUSE

Latey Spaw

ENGROSSING CLERK

MAY 1 1985

Received from the Senate

~~MAY 1 1985~~

Read first time and referred to Committee on

State Affairs5-7-85

Reported favorably amended; sent to Printer

9:55 AMMAY 9 1985

Printed and Distributed

3:39 PMMAY 10 1985

Sent to Committee on Calendars

9:34 AMMAY 10 1985

Read second time (amended) and finally adopted

failed adoption by Record Vote of

134 yeas 7 nays 1 present not voting

Read third time (amended) and finally adopted

failed adoption by a Record Vote of

years nays present not voting

Caption ordered amended to conform to body of resolution

MAY 17 1985

Returned to Senate.

Betty Murray

Chief Clerk of the House

MAY 17 1985

RETURNED FROM HOUSE